

this act being, that all injury which may be done to any land, without the consent of the proprietor or proprietors thereof, by opening and constructing the said rail road through the same, over and above the advantages of the said road, to the proprietor or proprietors of such land, shall be fully and completely compensated for in damages when ascertained by a confirmation of the report of the assessors or valuers by the respective county courts; if they be not paid to the party or parties entitled to the same, or into the court by the company, during the term at which the report shall be confirmed, the clerk of the court, shall at any time after the adjournment of the court, on the application of the parties entitled to the said damages, or his or their attorney, issue execution for the amount of the said damages, against the said company.

9. *Be it further enacted*, That the president and directors, for the purpose of making the said rail road, or of repairing the same after it shall have been made, shall also be at liberty, by themselves, their officers, agents or servants, at any time to enter upon any adjacent lands, and to cut, quarry, dig, take, and carry away therefrom, any wood, stone, gravel or earth, which they may deem necessary. *Provided however*, that they shall not, without the consent of the owner, cut down any fruit tree or trees preserved in any lot or field for shade or ornament, nor take any timber, gravel, stone or earth, constituting any part of any fence or building. For all wood, stone, gravel or earth, taken under authority of this act; and for all incidental injuries done to the enclosures, crops, woods or grounds, in taking or carrying the same away, the said president and directors shall make the owner, a fair compensation; to be ascertained, if the parties cannot agree, by any three impartial and disinterested freeholders, who being appointed for that purpose by any justice of the peace thereto required by the owner, shall be sworn or affirmed by the justice, and shall then ascertain the compensation upon their own view, for the wood, stone, gravel or earth taken, and for the injury done as aforesaid in taking them, of all which proceedings the president or chief engineer of the company shall have at least five days' notice in writing, and either party dissatisfied with their award thus made, may take an appeal to the next court of pleas and quarter sessions of the county where the land lies.

10. If the president and directors of the said company shall not obtain the consent of the proprietor or proprietors of the land, through which they propose to open and construct the said rail road, and shall not apply to the county court to procure assessors or valuers, to be appointed to ascertain the damages which will result to the proprietor or proprietors of any land from opening and constructing the said rail road through the same, within forty days from the time the said president and directors, their superintendents, agents, contractors, laborers or servants, shall commence opening and constructing the said rail road through such land, then it shall be lawful for the proprietor or proprietors of such land, at any time previous to an application for the appointment of valuers being made by the said rail road company, giving the said company